



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

March 31, 2005

Correspondence Control Number: T:EO:E-XX-2004

MEMORANDUM FOR ALL EO EXAMINATIONS MANAGERS
AND REVENUE AGENTS

FROM: R. C. Johnson /s/ R. C. Johnson
Director, EO Examinations

SUBJECT: Political Intervention Project (PIP)

The purpose of this memorandum and attachments is to issue interim guidance regarding "political referrals" for both church and non-church 501(c)(3) organizations.

Attached to this memorandum are the latest procedures for both church and non-church 501(c)(3) organizations.

Project codes for this project are **0302 for Compliance Project, and 0012 for TEP Examinations.** The project codes are to be used on the Type A cases (being worked by a very limited number of agents), the Type B cases, and any "pre-existing" Political Intervention (PI) cases.

A **check sheet** for this project is also attached. The check sheet is required to be prepared for all closed cases. No paper copies of the check sheet will be accepted; the check sheet must be submitted electronically directly to EPP Analyst, Tonya L. Davis. The electronic file should have the following naming convention:

Checksheet_PIP AAAAAAA (agent's last name, date checksheet created or last changed).xls. The "AAAAAAA" should be the first 15 letters of the organizations name. For example: "Checksheet PIP Charity Polit (Kall 01-05-2005).xls"

A hard copy of the checksheet should be placed in the case file with an indication of when it was sent to the EPP Analyst. Cases closed without the checksheet will be returned to the group. Checksheets e-mailed without the proper naming convention will also be returned to the agent for correction.

At this time, we feel the need to clarify procedures applicable to pre-existing and Type A and Type B cases. It was the intent of the PIP Team to treat pre-existing cases the same as Type A and Type B cases, i.e. their project codes would be updated and the "Fast Track" procedures would apply. It is now clear that our intent was not universally understood.

With the elections over, and the fact that the majority of the pre-existing cases involved alleged political activity occurring prior to the most recent election cycle, the team has decided not to grandfather those cases into the 'Fast Track' procedures. However, as a critical initiative type referral, those cases remain a high priority, and must be worked expeditiously and their project code should be updated.

The revised procedures provide that any referral received in Classification after November 30, 2004, will not follow the "Fast Track" procedures. However, the PI project codes and check sheet will still need to be used on all PI cases, whether the referral was pre or post November 30th. Please keep in mind that Classification had a slight backlog of these cases, so referrals received through November 30th requiring the use of "Fast Track" procedures, may have continued to be received in the groups throughout December and January.

Sensitive Case Reports

Because of the sensitive nature of these PI cases, a monthly sensitive case report must be prepared.

Cases subject to the "Fast Track" procedures (Type A and Type B) **must** include in the sensitive case report:

- Date the initial contact letter was sent (non-churches), either Letter 3934 for Type A Cases, or Letter 3935 for Type B cases; and
- Date the follow up letter was sent. (Type B cases).

Church cases that are in the PI project (Type A, Type B, and pre-existing) **must** include in the sensitive case report:

- Date Counsel was notified;
- Date forwarded to Review; and
- Date the inquiry letter was sent.

In addition, the sensitive case report **must** detail the specific political intervention issue on the case. Area Managers should electronically forward copies of these PI sensitive case reports to the EPP Analyst assigned to the PIP Team.

A number of PIP cases are large churches that may meet the criteria for classification as a TEP case. If a large church is going to have a section 7611 examination letter issued, the manager should contact the TEP program manager to discuss whether it should be included in the TEP universe, which would require preparation and submission of a TEP identification worksheet along with updating the PC to 012.

All PI cases, both churches and non-church 501(c)(3) organizations, must be closed to Mandatory Review. Please note that this directive is in contrast to the recent memorandum covering new procedures for 30-day letters, as well as advisory and no change letters. The groups should prepare closing letters for these cases; however, **they should not be sent out by the group. Mandatory Review will be responsible for mailing all closing letters for cases in the Political Intervention Project (PIP).**

Groups must ensure on any advisory cases that the closing letter includes a description of the political intervention issue, the taxpayer's explanation, corrective actions taken by the organization, and that future violations of the prohibition on political intervention may result in revocation. The proper disposal code in these situations would be "52–No Change with Advisory".

These procedures will be incorporated into the appropriate IRM sections no later than April 1, 2006.

If you have questions, please contact the Political Intervention Project Leader.

Attachments (11)

POLITICAL INTERVENTION PROJECT CHECK SHEET

GP Project Code 302

TEP Project Code 012

ORGANIZATION NAME:					
ADDRESS:					
CITY:		STATE:		ZIP:	
EIN:					
AGENT NAME:					
GROUP:					
PHONE NUMBER:					

TYPE OF CASE:

<input type="checkbox"/>	CHURCH	<input type="checkbox"/>	TYPE A	<input type="checkbox"/>	PRE-EXISTING
<input type="checkbox"/>	NON-CHURCH	<input type="checkbox"/>	TYPE B		

REASON FOR AUDIT:

<input type="checkbox"/>	CONTRIBUTION MADE TO A CANDIDATE OR A POLITICAL	AMOUNT:	<input type="text"/>
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ENDORSED POLITICAL CANDIDATE FROM:

<input type="checkbox"/>	PULPIT	DESCRIBE:	
<input type="checkbox"/>	MAIL		
<input type="checkbox"/>	EMAIL		
<input type="checkbox"/>	OTHER		

CANDIDATE SPOKE DURING SERVICE AND/OR AT CHURCH/NON-CHURCH EVENT

<input type="checkbox"/>	SERVICE
<input type="checkbox"/>	CHURCH EVENT
<input type="checkbox"/>	NON-CHURCH EVENT

INVOLVED IN ACTIVITIES THAT

☐ SUPPORTED A CANDIDATE

☐ OPPOSED A CANDIDATE

☐ POLITICAL SIGNS PLACED ON THE FACILITY OF THE ORGANIZATION OR ON THEIR PROPERTY
DESCRIBE:

☐ OTHER:

DISPOSITION OF AUDIT:

☐ AIMS DISPOSAL CODE

☐ NO CHANGE

☐ ADVISORY DESCRIBE:

☐ SECTION 4955 TAX ASSESSED ☐ AMOUNT OF TAX ASSESSED

☐ EXEMPT STATUS OF ORGANIZATION REVOKED DATE:

☐ OTHER DESCRIBE:

AS A RESULT OF THE IRS CONTACT, WHAT CORRECTIVE ACTION DID THE TP TAKE?

☐ INSTITUTED INTERNAL POLICIES PROHIBITING POLITIKING DATE:

☐ RECOVERED FUNDS ☐ AMOUNT RECOVERED

☐ ISSUED RETRACTION DATE:

OTHER:

DISPOSITION OF THIS CHECK SHEET

1. SECURE MESSAGE A COPY OF THE CHECKSHEET ALONG WITH A COPY OF THE RAR TO TONYA L. DAVIS
2. RETAIN A COPY IN THE CASE FILE

Printed 10/20/2005

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Checksheet_PIP (Davis 12-03-2004).xls

Form 4564	Department of the Treasury Internal Revenue Service Information Document Request	Request #1
To: (Name of Taxpayer and Company, Division or Branch) Taxpayer Name Address Line 1 City, ST ZIPCODE	Subject: Intervention in Political Campaign	
	Submitted to:	
	Dates of Previous Requests: None	

Description of Documents Requested:

Issue: Whether your organization engaged in any other activity that constitutes participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office.

We have received information describing activities your organization engaged in on behalf of, or in opposition to candidates for public office. Specifically, [The agent should **cite the publicly available source(s), for instance, "you distributed ratings of candidates for the November 7, 2004 election for judicial offices in ABC County as 'approved', 'not approved' or 'approved as highly qualified'".** Organizations exempt under IRC 501(c)(3) are expressly prohibited from intervening in any political campaign for public office.

Please provide a written response that addresses, at a minimum, the following items and includes the documents requested:

- Provide a copy of the ratings statements distributed by the organization.
- Who authorized the ratings statements distribution?
- Who were the board members at the time the ratings statements distribution was authorized?
Provide the names and addresses of each board member and how each voted.
Provide copies of the minutes of the board meetings where you discussed and voted on the distribution of the ratings statements.
- Describe in detail how you derived the ratings.
- How did you distribute the ratings statements?
By mail, in person, etc.
- If by mail, how many flyers did you distribute?
- If in person, did volunteers or paid staff distribute them?
- Was the distribution on the premises of the organization or offsite?
- If you believe that the ratings statements do not constitute intervention in a political campaign within the meaning of IRC 501(c)(3), provide any documentation that supports your view.
- Describe in detail any similar rating activity conducted by your organization in this or other political campaigns.

Law:

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Section 501(c)(3) organizations, which include charities, educational institutions and religious organizations, are prohibited from directly or indirectly participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. This means, for example, that they cannot (1) endorse any candidate, (2) contribute money, goods, or services to a candidate's campaign, (3) engage in fund-raising for a candidate, (4) distribute statements for or against a particular candidate, or (5) engage in any other activity that constitutes intervention in a political campaign on behalf of, or in opposition to, any candidate. Even activities that encourage people to vote for or against a particular candidate on the basis of nonpartisan criteria violate the political campaign prohibition of section 501(c)(3).

The prohibition on political campaign activity applies only to tax-exempt charitable organizations, not to the activities of individuals in their private capacity. The political campaign activity prohibition is not intended to restrict free expression on political matters by leaders of charitable organizations speaking for themselves as individuals. Nor are leaders prohibited from speaking about important issues of public policy. For their organizations to remain tax-exempt under section 501(c)(3), however, organization leaders cannot make partisan comments in official organization publications or at official organization functions.

Similarly, the prohibition on political campaign activity does not prohibit charitable organizations from having contact of any kind with individuals who are candidates for public office. For example, political candidates are not prohibited from attending organization meetings. Depending on the facts and circumstances, a charitable organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. For example, a candidate can be invited to speak at an organization function in his or her status as a candidate if the organization takes steps to ensure that: (1) it provides an equal opportunity to other political candidates seeking the same office, (2) it does not indicate any support of or opposition to any candidate, and (3) no political fund-raising occurs. A candidate can be invited to speak at an organization function in his or her individual (non-candidate) capacity if the organization takes steps to ensure that: (1) the candidate speaks only in a non-candidate capacity (for example, a candidate speaks before a philatelic organization in his or her capacity as an expert on postage stamps of Great Britain), (2) neither the candidate nor any representative of the organization makes any mention of the fact that the individual is a candidate for public office or of the election in which he or she is running, and (3) no campaign activity occurs in connection with the candidate's attendance.

Whether a tax-exempt organization is engaging in prohibited political campaign activity depends upon all the facts and circumstances in each case. For example, organizations may encourage people to participate in the electoral process by sponsoring debates or forums to educate voters, distributing voter guides, or conducting voter registration or get-out-the-vote drives. If the debate or forum, voter guide, or voter registration or get-out-the-vote drive shows a preference for or against a certain candidate or party, however, it becomes a prohibited activity.

If the IRS determines that a section 501(c)(3) organization has engaged in prohibited campaign activity, the organization could lose its tax-exempt status and it could be subject to an excise tax on the amount of money spent on that activity.

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Description of Documents Requested:

In cases of flagrant violation of the law, the IRS has specific statutory authority to make an immediate determination and assessment of tax. Also, the IRS can ask a federal district court to enjoin the organization from making further political expenditures. In addition, contributions to organizations that lose their section 501(c)(3) status because of political activities are not deductible by the donors for federal income tax purposes.

In *Association of the Bar of the City of New York v. Commissioner*, 858 F.2d 876 (2d Cir. 1988), *cert. denied*, 490 U.S. 1030 (1989), the court determined that the Association did not qualify as an organization described in IRC 501(c)(3) because it participated or intervened in a political campaign. The Association's disqualifying activity was the distribution of its ratings of candidates for elective judicial office as "approved", "not approved" or "approved as highly qualified." The ratings were made on the basis of a comparison of the candidate with ideal standards of competence, ability, and other qualities; they did not involve comparisons with other candidates. The court stated that although this activity was nonpartisan and in the public interest, it nevertheless constituted participation or intervention in a political campaign and the Association therefore did not qualify as an IRC 501(c)(3) organization.

Section 501(c)(3) organizations are also subject to excise taxes imposed by section 4955 of the Internal Revenue Code. Section 4955(a)(1) provides for an initial tax on the organization of 10 percent of each political expenditure. Section 4955(b)(1) imposes an additional tax on the organization of 100 percent of each political expenditure previously taxed and not corrected within the taxable period. In addition, section 4955(a)(2) imposes a tax of 2½ percent of the political expenditure on any organization manager who agreed to the making of the political expenditure, unless the agreement was not willful and due to reasonable cause. If the second-tier tax of section 4955(a)(2) is imposed on the organization, section 4955(b)(2) imposes a tax of 50 percent of the political expenditure on organization managers who refuse to agree to all or part of the correction.

Section 4955(d)(1) defines the term "political expenditure" as "any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

For additional information about the political campaign prohibition for section 501(c)(3) organizations, please see our website at www.irs.gov/eo. We have attached the following two articles from our website for your information:

1. Excerpt from IRS Publication 1828, *Tax Guide for Churches and Religious Organizations*;
2. IR-2004-59, April 28, 2004: *Charities May Not Engage in Political Campaign Activities*

Please provide the above information and/or documents as soon as possible but no later than 15 days from the date of this letter. If you need additional time to respond, call me at the number shown below to discuss a mutually-agreeable response date. If we do not hear from you within 15 days, we will assume that you do not intend to reply and will proceed accordingly.

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Description of Documents Requested:

Issue: Whether your organization has contributed (directly or indirectly) to a political campaign:

We have received information that on (specify date), your organization made a contribution of \$ (specify amount) to the campaign of (specify candidate) for the office of (specify public office sought by candidate). **[If the contribution(s) is disclosed in a campaign's filing with the FEC or a state agency, should we cite the source?]** Organizations exempt under IRC 501(c)(3) are expressly prohibited from intervening in any political campaign for public office.

Please provide a written response that addresses, at a minimum, the following items and includes any of the documents requested:

- Who authorized the contribution?
- Who were the board members at the time the contribution was authorized?
Provide the names and addresses of each board member and indicate how each voted.
Provide copies of the minutes of the board meetings where you discussed and voted on the contribution.
- How did you record the contribution in the general ledger?
- If you made the contribution by check, provide a copy of the cancelled check (front and back) or other evidence that you paid the funds (bank statement).
- If you believe that the contribution stated above does not constitute intervention in a political campaign within the meaning of IRC 501(c)(3), provide any documentation that supports your view.
- Describe in detail any similar contributions made by your organization in other political campaigns.

Law:

Section 501(c)(3) organizations, which include charities, educational institutions and religious organizations, are prohibited from directly or indirectly participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. This means, for example, that they cannot (1) endorse any candidate, (2) make donations to a candidate's campaign, (3) engage in fund-raising for a candidate, (4) distribute statements for or against a particular candidate, or (5) become involved in any other activity that may be beneficial or detrimental to any candidate. Even activities that encourage people to vote for or against a particular candidate on the basis of nonpartisan criteria violate the political campaign prohibition of section 501(c)(3).

The prohibition on political campaign activity applies only to tax-exempt charitable organizations, not to the activities of individuals in their private capacity. The political campaign activity prohibition is not intended to

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Description of Documents Requested:

restrict free expression on political matters by leaders of charitable organizations speaking for themselves as individuals. Nor are leaders prohibited from speaking about important issues of public policy. For their organizations to remain tax-exempt under section 501(c)(3), however, organization leaders cannot make partisan comments in official organization publications or at official organization functions.

Similarly, the prohibition on political campaign activity does not prohibit charitable organizations from having contact of any kind with individuals who are candidates for public office. For example, political candidates are not prohibited from attending organization meetings. Depending on the facts and circumstances, a charitable organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. For example, a candidate can be invited to speak at an organization function in his or her status as a candidate if the organization takes steps to ensure that: (1) it provides an equal opportunity to other political candidates seeking the same office, (2) it does not indicate any support of or opposition to any candidate, and (3) no political fund-raising occurs. A candidate can be invited to speak at an organization function in his or her individual (non-candidate) capacity if the organization takes steps to ensure that: (1) the candidate speaks only in a non-candidate capacity (for example, a candidate speaks before a philatelic organization in his or her capacity as an expert on postage stamps of Great Britain), (2) neither the candidate nor any representative of the organization makes any mention of the fact that the individual is a candidate for public office or of the election in which he or she is running, and (3) no campaign activity occurs in connection with the candidate's attendance.

Whether a tax-exempt organization is engaging in prohibited political campaign activity depends upon all the facts and circumstances in each case. For example, organizations may encourage people to participate in the electoral process by sponsoring debates or forums to educate voters, distributing voter guides, or conducting voter registration or get-out-the-vote drives. If the debate or forum, voter guide, or voter registration or get-out-the-vote drive shows a preference for or against a certain candidate or party, however, it becomes a prohibited activity.

If the IRS determines that a section 501(c)(3) organization has engaged in prohibited campaign activity, the organization could lose its tax-exempt status and it could be subject to an excise tax on the amount of money spent on that activity.

Section 4955(a)(1) provides for an initial tax on the organization of 10 percent of each political expenditure. Section 4955(b)(1) imposes an additional tax on the organization of 100 percent of each political expenditure previously taxed and not corrected within the taxable period. In addition, section 4955(a)(2) imposes a tax of 2½ percent of the political expenditure on any organization manager who agreed to the making of the political expenditure, unless the agreement was not willful and due to reasonable cause. If the second-tier tax of section 4955(a)(2) is imposed on the organization, section 4955(b)(2) imposes a tax of 50 percent of the political expenditure on organization managers who refuse to agree to all or part of the correction.

Section 4955(d)(1) defines the term "political expenditure" as "any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

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Description of Documents Requested:

In cases of flagrant violation of the law, the IRS has specific statutory authority to make an immediate determination and assessment of tax. Also, the IRS can ask a federal district court to enjoin the organization from making further political expenditures. In addition, contributions to organizations that lose their section 501(c)(3) status because of political activities are not deductible by the donors for federal income tax purposes.

For additional information about the political campaign prohibition for section 501(c)(3) organizations, please see our website at www.irs.gov/eo. We have attached the following two articles from our website for your information:

1. Excerpt from IRS Publication 1828, *Tax Guide for Churches and Religious Organizations*;
2. IR-2004-59, April 28, 2004: *Charities May Not Engage in Political Campaign Activities*

Please provide the above information and/or documents as soon as possible but no later than 15 days from the date of this letter. If you need additional time to respond, call me at the number shown below to discuss a mutually-agreeable response date. If we do not hear from you within 15 days, we will assume that you do not intend to reply and will proceed accordingly.

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Description of Documents Requested:

Issue: Whether your organization distributed statements for or against a particular candidate for public office:

We have received information that on (specify date), your organization distributed statements in support of (specify candidate) for the office of (specify public office sought by candidate). **(Revenue Agent: Cite any public information sources, describe the alleged statements and attach a copy if it is available. For example: Specifically, the organization distributed flyers, printed on the organization's stationery, which stated the organization's position on a particular issue and listed the candidate that espouses that particular position. Be as specific as possible).** Organizations exempt under IRC 501(c)(3) are expressly prohibited from intervening in any political campaign on behalf of, or in opposition to any candidate for public office.

Please provide a written response that addresses, at a minimum, the following items and includes the documents requested:

- Provide a copy of the statements your organization distributed that connected a particular candidate to the organization's position on an issue.
- Who authorized the distribution of the statements?
- Who were the board members at the time the distribution of the statements was authorized?
Provide the names and addresses of each board member and indicate how each voted.
Provide copies of the minutes of the board meetings where you discussed and voted on the distribution of the statements.
- How did you distribute the statements?
By mail, in person, etc.
- If by mail, how many did you distribute?
- If in person, did volunteers or paid staff distribute them?
- Was distribution on the premises of the organization or offsite?
- If you believe that the distributed statements do not constitute intervention in a political campaign within the meaning of IRC 501(c)(3), provide any documentation that supports your view.
- Describe in detail any similar candidate support activity conducted by your organization in other political campaigns.

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Section 4955(a)(1) provides for an initial tax on the organization of 10 percent of each political expenditure. Section 4955(b)(1) imposes an additional tax on the organization of 100 percent of each political expenditure previously taxed and not corrected within the taxable period. In addition, section 4955(a)(2) imposes a tax of 2½ percent of the political expenditure on any organization manager who agreed to the making of the political expenditure, unless the agreement was not willful and due to reasonable cause. If the second-tier tax of section 4955(a)(2) is imposed on the organization, section 4955(b)(2) imposes a tax of 50 percent of the political expenditure on organization managers who refuse to agree to all or part of the correction.

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Description of Documents Requested:

Issue: Whether your organization has intervened in a political campaign:

We have received information that on (specify date), your organization took out an advertisement in the (specify newspaper or other publication). In that advertisement, your organization endorsed (specify candidate) in his or her political campaign for the office of (specify public office – i.e. mayor). We have attached a copy of that advertisement for your information. Organizations exempt under IRC 501(c)(3) are expressly prohibited from intervening in any political campaign for public office.

Please provide a written response that addresses, at a minimum, the following items and includes the documents requested:

- Who authorized the advertisement?
- Who were the board members at the time the advertisement was authorized?
Provide the names and addresses of each board member and indicate how each voted.
Provide copies of the minutes of the board meetings where you discussed and voted on the advertisement.
- What was the cost of the advertisement? (Provide a copy of the invoice and a copy of the cancelled check.)
- If you believe that the advertisement stated above does not constitute intervention in a political campaign within the meaning of IRC 501(c)(3), provide any documentation that supports your view.
- Describe in detail any similar advertising done by your organization in other political campaigns.

Law:

Section 501(c)(3) organizations, which include charities, educational institutions and religious organizations, are prohibited from directly or indirectly participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. This means, for example, that they cannot (1) endorse any candidate, (2) contribute money, goods, or services to a candidate's campaign, (3) engage in fund-raising for a candidate, (4) distribute statements for or against a particular candidate, or (5) become involved in any other activity that may be beneficial or detrimental to any candidate. Even activities that encourage people to vote for or against a particular candidate on the basis of nonpartisan criteria violate the political campaign prohibition of section 501(c)(3).

The prohibition on political campaign activity applies only to tax-exempt charitable organizations, not to the activities of individuals in their private capacity. The political campaign activity prohibition is not intended to restrict free expression on political matters by leaders of charitable organizations speaking for themselves as individuals. Nor are leaders prohibited from speaking about important issues of public policy. For their

Information Due By _____ At Next Appointment ☐ Mail In ☒

FROM	Name and Title of Requestor	Date:
	Office Location:	

Form 4564	Department of the Treasury Internal Revenue Service Information Document Request	Request #1
To: (Name of Taxpayer and Company, Division or Branch) Taxpayer Name Address Line 1 City, ST ZIPCODE	Subject: Intervention in Political Campaign	
	Submitted to:	
	Dates of Previous Requests: None	

Description of Documents Requested:

organizations to remain tax-exempt under section 501(c)(3), however, organization leaders cannot make partisan comments in official organization publications or at official organization functions.

Similarly, the prohibition on political campaign activity does not prohibit charitable organizations from having contact of any kind with individuals who are candidates for public office. For example, political candidates are not prohibited from attending organization meetings. Depending on the facts and circumstances, a charitable organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. For example, a candidate can be invited to speak at an organization function in his or her status as a candidate if the organization takes steps to ensure that: (1) it provides an equal opportunity to other political candidates seeking the same office, (2) it does not indicate any support of or opposition to any candidate, and (3) no political fund-raising occurs. A candidate can be invited to speak at an organization function in his or her individual (non-candidate) capacity if the organization takes steps to ensure that: (1) the candidate speaks only in a non-candidate capacity (for example, a candidate speaks before a philatelic organization in his or her capacity as an expert on postage stamps of Great Britain), (2) neither the candidate nor any representative of the organization makes any mention of the fact that the individual is a candidate for public office or of the election in which he or she is running, and (3) no campaign activity occurs in connection with the candidate's attendance.

Whether a tax-exempt organization is engaging in prohibited political campaign activity depends upon all the facts and circumstances in each case. For example, organizations may encourage people to participate in the electoral process by sponsoring debates or forums to educate voters, distributing voter guides, or conducting voter registration or get-out-the-vote drives. If the debate or forum, voter guide, or voter registration or get-out-the-vote drive shows a preference for or against a certain candidate or party, however, it becomes a prohibited activity.

If the IRS determines that a section 501(c)(3) organization has engaged in prohibited campaign activity, the organization could lose its tax-exempt status and it could be subject to an excise tax on the amount of money spent on that activity.

Section 4955(a)(1) provides for an initial tax on the organization of 10 percent of each political expenditure. Section 4955(b)(1) imposes an additional tax on the organization of 100 percent of each political expenditure previously taxed and not corrected within the taxable period. In addition, section 4955(a)(2) imposes a tax of 2½ percent of the political expenditure on any organization manager who agreed to the making of the political expenditure, unless the agreement was not willful and due to reasonable cause. If the second-tier tax of section 4955(a)(2) is imposed on the organization, section 4955(b)(2) imposes a tax of 50 percent of the political expenditure on organization managers who refuse to agree to all or part of the correction.

Section 4955(d)(1) defines the term "political expenditure" as "any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

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Form 4564	Department of the Treasury Internal Revenue Service Information Document Request	Request #1
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Description of Documents Requested:

In cases of flagrant violation of the law, the IRS has specific statutory authority to make an immediate determination and assessment of tax. Also, the IRS can ask a federal district court to enjoin the organization from making further political expenditures. In addition, contributions to organizations that lose their section 501(c)(3) status because of political activities are not deductible by the donors for federal income tax purposes.

For additional information about the political campaign prohibition for section 501(c)(3) organizations, please see our website at **www.irs.gov/eo**. We have attached the following two articles from our website for your information:

1. Excerpt from IRS Publication 1828, *Tax Guide for Churches and Religious Organizations*;
2. IR-2004-59, April 28, 2004: *Charities May Not Engage in Political Campaign Activities*

Please provide the above information and/or documents as soon as possible but no later than 15 days from the date of this letter. If you need additional time to respond, call me at the number shown below to discuss a mutually-agreeable response date. If we do not hear from you within 15 days, we will assume that you do not intend to reply and will proceed accordingly.

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	Office Location:	

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To: (Name of Taxpayer and Company, Division or Branch) Taxpayer Name Address Line 1 City, ST ZIPCODE	Subject: Intervention in Political Campaign	
	Submitted to:	
	Dates of Previous Requests: None	

Description of Documents Requested:

Issue: Whether your organization engaged in fundraising for the political campaign of a candidate for public office:

We have received information that on (specify date), your organization engaged in fundraising for (specify candidate) for the office of (specify public office sought by candidate). **(Regenue Agent: Describe the alleged fundraising activity specifically, for example: Specifically, the organization conducted a pancake breakfast with the proceeds designated to go to the campaign of Mickey Mouse for Mayor. Be as specific as possible).** Organizations exempt under IRC 501(c)(3) are expressly prohibited from intervening in any political campaign for public office.

Please provide a written response that addresses, at a minimum, the following items and includes the documents requested:

- Provide a copy of any agreement between the organization and the candidate that discusses the organization's obligation to remit the proceeds of the fund-raising event to the candidate's campaign.
- Who authorized this fund-raising event?
- Who were the board members at the time the fund-raising event was authorized?
Provide the names and addresses of each board member and how each voted.
Provide copies of the minutes of the board meetings where you discussed and voted on this fund-raising event.
- How did you publicize the fund-raising event?
Provide copies of any flyers
Provide invoices for each flyer
- If the organization publicized via broadcast media, provide that invoice and a copy of the text/script.
- How did you record the gross receipts of the fund-raising event in the general ledger?
- How did you record the fund-raising expenses for the event in the general ledger?
- How did the candidate or the candidate's campaign organization receive the proceeds?
If by check, provide a copy of the cancelled check (front and back).
- If you believe that the fund-raising event stated above does not constitute intervention in a political campaign within the meaning of IRC 501(c)(3), provide any documentation that supports your view.
- Describe in detail any similar fund-raising events conducted by your organization in other political campaigns.

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Law:

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The prohibition on political campaign activity applies only to tax-exempt charitable organizations, not to the activities of individuals in their private capacity. The political campaign activity prohibition is not intended to restrict free expression on political matters by leaders of charitable organizations speaking for themselves as individuals. Nor are leaders prohibited from speaking about important issues of public policy. For their organizations to remain tax-exempt under section 501(c)(3), however, organization leaders cannot make partisan comments in official organization publications or at official organization functions.

Similarly, the prohibition on political campaign activity does not prohibit charitable organizations from having contact of any kind with individuals who are candidates for public office. For example, political candidates are not prohibited from attending organization meetings. Depending on the facts and circumstances, a charitable organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. For example, a candidate can be invited to speak at an organization function in his or her status as a candidate if the organization takes steps to ensure that: (1) it provides an equal opportunity to other political candidates seeking the same office, (2) it does not indicate any support of or opposition to any candidate, and (3) no political fund-raising occurs. A candidate can be invited to speak at an organization function in his or her individual (non-candidate) capacity if the organization takes steps to ensure that: (1) the candidate speaks only in a non-candidate capacity (for example, a candidate speaks before a philatelic organization in his or her capacity as an expert on postage stamps of Great Britain), (2) neither the candidate nor any representative of the organization makes any mention of the fact that the individual is a candidate for public office or of the election in which he or she is running, and (3) no campaign activity occurs in connection with the candidate's attendance.

Whether a tax-exempt organization is engaging in prohibited political campaign activity depends upon all the facts and circumstances in each case. For example, organizations may encourage people to participate in the electoral process by sponsoring debates or forums to educate voters, distributing voter guides, or conducting voter registration or get-out-the-vote drives. If the debate or forum, voter guide, or voter registration or get-out-the-vote drive shows a preference for or against a certain candidate or party, however, it becomes a prohibited activity.

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	Dates of Previous Requests: None	

Description of Documents Requested:

If the IRS determines that a section 501(c)(3) organization has engaged in prohibited campaign activity, the organization could lose its tax-exempt status and it could be subject to an excise tax on the amount of money spent on that activity.

Section 4955(a)(1) provides for an initial tax on the organization of 10 percent of each political expenditure. Section 4955(b)(1) imposes an additional tax on the organization of 100 percent of each political expenditure previously taxed and not corrected within the taxable period. In addition, section 4955(a)(2) imposes a tax of 2½ percent of the political expenditure on any organization manager who agreed to the making of the political expenditure, unless the agreement was not willful and due to reasonable cause. If the second-tier tax of section 4955(a)(2) is imposed on the organization, section 4955(b)(2) imposes a tax of 50 percent of the political expenditure on organization managers who refuse to agree to all or part of the correction.

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In cases of flagrant violation of the law, the IRS has specific statutory authority to make an immediate determination and assessment of tax. Also, the IRS can ask a federal district court to enjoin the organization from making further political expenditures. In addition, contributions to organizations that lose their section 501(c)(3) status because of political activities are not deductible by the donors for federal income tax purposes.

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Please provide the above information and/or documents as soon as possible but no later than 15 days from the date of this letter. If you need additional time to respond, call me at the number shown below to discuss a mutually-agreeable response date. If we do not hear from you within 15 days, we will assume that you do not intend to reply and will proceed accordingly.

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FROM	Name and Title of Requestor	Date:
	Office Location:	

Political Intervention Project
Election Cycle Fast Track Procedure Guidelines
(2004 Election Cycle)

If	Then
Political Intervention referral cases are pre-existing in a group prior to August 1, 2004;	<ul style="list-style-type: none">• Fast-track procedures do not apply• Cases are still priority, critical initiative cases• Project code needs to be updated to 302, (012 for TEP)• Checksheet is still required
Type A or B referrals received in classification between August 1, 2004 November 30, 2004;	<ul style="list-style-type: none">• Fast-track procedures do apply• Cases are priority, critical initiative cases• Project code should be 302 (012 for TEP)• Checksheet is required
Political intervention Type A or B referrals received in classification December 1, 2004 and subsequent;	<ul style="list-style-type: none">• Fast-track procedures do not apply• Cases are priority, critical initiative cases• Project code should be 302 (012 for TEP)• Checksheet is required

Political Intervention Project Procedures

501(c)(3) Churches and Non-Churches

Purpose:

These procedures are designed to focus our resources during election cycles in order to expeditiously address instances of political intervention by 501(c)(3) organizations in violation of the Code. The goal is to ensure the public charity does not continue intervening, and to increase our enforcement presence on this issue during a period in which non-compliance has historically risen.

Project Scope:

- During election cycles, (as defined below), “Fast Track” procedures will apply to all political intervention (PI) cases, along with a special project code and a checklist for gathering data.
- All cases in the project are a result of referrals of information from normal referral sources.
- During non-election cycles, “Fast Track” procedures will not apply. Political intervention cases may be specifically identified as a critical initiative, a special project code may be assigned, and a checklist for tracking the exam results may be used.
- During election cycles, even if a return is not yet due, and/or the tax year has not closed, the “Fast Track” procedures will be used. There is no need to wait for a return to be filed or the tax year to end in order to initiate an examination of the organization and its activities.

Election Cycle:

- For purposes of this project, an election cycle will begin March 1 of even numbered years, and end November 30 of that year.
- In odd numbered years, the Director, EO Examinations, will decide, with input from EP & R and the Area Managers, whether certain state or local elections are or may generate non-compliance and therefore necessitate the need for the “fast track” procedures to be implemented.

Political Intervention Case:

- Political Intervention cases are those in which a 501(c)(3) organization, both churches and non-churches, has allegedly participated or intervened in any political campaign on behalf of or in opposition to any candidate for public office. The EO Referral Committee will make the determination whether a referral of an alleged violation merits examination, or for churches whether a reasonable belief exists under §7611.

Fast Track Procedures:

During an election cycle, the “Fast Track” procedures will apply. “Fast Track” procedures begin with the receipt of a referral (Accelerated Case Initiation) and end with a closed case.

Project Leader and Team:

The Director, EO Examinations, will select a front line group manager as the Political Intervention Project (PIP) Leader at least 120 days prior to the election cycle. A cross divisional team will be assembled and preliminary planning conferences to discuss strategy for the upcoming election cycle should be held. The PIP team will include an Area Counsel member, CE & O, R & A, Mandatory Review, Classification, and EPP. The Project Leader will oversee and coordinate all aspects of the project.

Outreach:

The project leader will coordinate prior to the election cycle with CE & O on the recommended public notices regarding prohibited political activity. This coordination will include implementing recommendations from the team, such as earlier notices than in the past, along with follow up notices. CE & O should evaluate data collected from previous election cycle project cases in order to tailor the outreach actions. Consideration should be given to publicizing our “Fast Track” procedures.

Training:

There should be a mandatory CENTRA session, or similar training, for all agents and managers on political intervention and the project procedures prior to the election cycle. A conference call with agents and managers up front should also be considered, along with regularly throughout the election cycle to ensure consistency and the quality of the efforts.

Accelerated Case Initiation

- Classification of 501(c)(3) “political referrals” will occur on a priority basis. If selected for examination a case file will be directed to a field group for assignment, within 20 working days following receipt of a referral.
 - All 501(c)(3) political referrals will be processed using fast track procedures, i.e., will be separated from other referrals and processed through Classification on a priority basis with a skeletal account established on AIMS in MF cases.
 - Political referrals for years in which a return has not yet been filed, and or in which the tax year has not closed, will be established NMF.
 - A separate classification committee, located in Dallas, will screen all 501(c)(3) political referrals on at least a weekly basis. The classification committee will categorize referrals as Type A (non-complex) or Type B (complex) at the time of classification.¹

¹ Type A cases are those which are likely susceptible of resolution via correspondence and are relatively non-complex. Such cases typically would involve only the political intervention issue, and only one organization. Type B cases are those which are complex, such as cases involving multiple, related organizations or cases which

- Additional resources will be obtained and allocated so that database entry and clerical duties can be completed on an expedited basis.
- **Type A** cases will be assigned to designated agents for processing. The cases will be mailed directly to these agents by Classification; notification of the mailing will be sent to their group manager.
- **Type B** cases will be assigned by Zip Code, as by current Classification guidelines. The case will be assigned to an agent by the group manager or acting group manager within two days of receipt in the group.
 - This method offers the most convenience to the taxpayer.
 - Local agents will have local knowledge to apply to the facts.
 - To address the possible negative aspect of uneven distribution, the Project Leader, will solicit as needed from the Areas one or more agents to take “overflow” cases at the request of the group manager.
 - To address the negative aspect of possible inconsistency, R&A will designate contacts for informal technical assistance, as needed.

Church Cases:

For church cases, when the case is mailed to the group or designated agent, a notice will be provided by Classification to the Area Manager and to the local Area/Deputy Area Counsel office, advising them of the assigned group and providing case information (name, address, EIN, alleged violation). This eliminates the mailing of the church case file to the Area Office. This also allows Counsel to contact the group manager if a request for assignment of attorney has not been received within three days of receipt of the notice.

Taxpayer contact by Examination (non church cases)

- **Type A Cases** [Designated agent(s)]
 - The agent will send an initial contact letter (Letter 3934) to the organization within 5 days of receipt. This letter will include details of the alleged specific conduct/activity of the organization, with copies of referral information (e.g., newspaper articles) as appropriate.² Included with the letter will be an IDR, with attachments, explaining the law and asking the organization for explanation. Attached are examples of IDRs that should be used depending upon the facts and circumstances of the case. (See Attachment 1 for IDR examples)

are referred and classified with multiple issues in addition to the political intervention issue. In Type B cases, a review of the organization’s books and records would likely be required.

² Information which might reveal the identity of a confidential informant will not be disclosed. If an individual who refers information does not indicate with the referral that he/she wishes to remain anonymous, the agent and group manager will decide whether to contact the individual to verify his/her wishes. If contact is made, the agent will ask whether the individual fears reprisal.

- If no return has been filed or the tax year has not ended since the alleged violation just occurred, the agent should not put the form number (990) on the letter since none has been filed at that time.
- The letter will be sent certified mail, with a 15 day response period.
- The letter will ask the organization for an explanation of the circumstances of the alleged activity.
- Possible Outcomes: The response to the initial contact letter will dictate the appropriate closing action. If no response is received, a field examination will be considered, or action may be taken based upon the information in the file.
- Closing Option: Some cases may be closed no-change; all such cases will include a closing letter to the organization providing explanation of the circumstances leading to the exam and the resolution.
- The closing letter will not be mailed by the group on PIP cases. Mandatory Review will issue all letters.
- All cases will be closed to Mandatory Review. In order to ensure consistency, Mandatory Review will designate a specific Reviewer(s) to handle all PIP cases.

- **Type B Cases**

- An initial contact letter 3935 (“soft contact”) will be sent by the field agent within 10 days of receipt of the case in the group. Immediately preceding an election, the group should attempt to mail the letter so the EO receives it prior to the election, in order to curtail possible additional prohibited intervention. The letter will indicate that information has been received, will identify the agent assigned to review the matter, and will set forth briefly the provisions of the law dealing with political intervention and the possible consequences.
 - This allows a quick, inexpensive contact which will generate word-of-mouth publicity.
 - This contact may deter further activity which might otherwise occur before more formal action can be taken.
 - This contact may generate a response which will allow closure without more formal action.
 - It is recognized that this contact may be perceived as IRS intimidation.
- After the initial contact letter, a second contact letter will be sent by the agent no sooner than 8 and no later than 15 working days after the initial contact letter.
- The second contact letter will include details of the specific conduct/activity in which the organization has allegedly participated, and will be similar to the Type A initial contact letter (Letter 3934), without the IDR attachments that include the explanation of the law. However, the information requested on those IDRs may be used in a custom IDR depending upon the facts and circumstances in the particular case.
- The letter will be sent certified mail, with a 15 day response period.
- The response to the second contact letter will dictate the next right step to be taken.
- The agent and manager will exercise their discretion and professional judgment in closing these cases.

- The closing letter will not be mailed by the group on PIP cases. Mandatory Review will issue all closing letters on PIP cases.
- All PIP cases will be closed to Mandatory Review. In order to ensure consistency, Mandatory Review will designate a specific Reviewer(s) to handle all PIP cases.

Expedited inquiry processing – Church Cases:

- When the church case is assigned to an agent, the group manager will immediately contact Area/Deputy Area Counsel and request assignment of an attorney. The assigned attorney will work with the agent to ensure timely processing.
 - The scope of the inquiry will be limited to the alleged political activity.
 - The inquiry letter will be drafted and directed to mandatory review within 15 working days following the request for assignment of a Counsel Attorney.
 - Mandatory Review will review the case and forward the Inquiry letter package to the Director, EO Examinations for issuance of the Inquiry letter within 10 days of receipt.
 - The Director, EO Examinations, will review and sign the Inquiry letter within 7 days of receipt.
 - Necessary approvals from Area Managers will be obtained by email or facsimile; 7611 file cover sheet should be faxed to Counsel following Area Manager initialing; after Counsel initialing it is faxed back to agent for stapling to the file prior to overnight mailing of the file to Mandatory Review.

Except for the above changes, normal 7611 inquiry/examination procedures will be followed.

Internal Revenue Service

Department of the Treasury

Date:

Taxpayer Identification Number:

Contact Person/ID Number:

Contact Telephone Numbers:

Dear Sir or Madam:

We are conducting an examination of your organization. At this time, the focus of our examination is limited to the issue of whether or not your organization has intervened in a political campaign as described in detail in the attached Form 4564, *Information Document Request*.

Organizations exempt under Internal Revenue Code (IRC) section 501(c)(3) are prohibited from directly or indirectly participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. Whether a tax-exempt charitable organization is engaging in prohibited political campaign activity depends on all the facts and circumstances. If the IRS finds a section 501(c)(3) organization engaged in prohibited campaign intervention, the organization could lose its tax-exempt status and it could be subject to an excise tax on the amount spent on that activity.

IRC 4955(a)(1) provides for an initial tax on an organization of 10 percent of each political expenditure. IRC 4955(b)(1) imposes an additional tax on the organization of 100 percent of each political expenditure previously taxed and not corrected within the taxable period. IRC 4955(d)(1) defines political expenditure as "any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

We realize some organizations may be concerned about an examination. We hope we can relieve any concerns you may have by briefly explaining the examination process and what your appeal rights are if you do not agree with the results.

When we complete the examination, we will explain our recommendations and how they may affect your exempt status or tax liability. You should fully understand any recommended changes and their ramifications. Please do not hesitate to ask questions about anything that is not clear to you.

If we recommend changes involving your tax liability and you agree with the changes, we will ask you to sign an agreement form. By signing the form, you will indicate your agreement to the amount shown as a refund due or additional tax owed. You do not have to agree with our recommendations. You may request a conference at a higher level as explained in the copy of the appeal procedures that we will provide you.

We would appreciate your providing us the name and telephone number of an officer with whom we can discuss this matter. If you wish us to discuss this matter with your representative, you must file a power of attorney in order for your representative to receive or inspect confidential information. You may use Form 2848, *Power of Attorney and Declaration of Representative* (or any other properly written power of attorney or authorization), for this purpose.

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please tell us the most convenient time to call if we need to contact you. Please respond within 15 days from the date of this letter.

Thank you for your cooperation.

Sincerely,

Revenue Agent

Enclosures:

Publication 1, *Your Rights as a Taxpayer*
Form 4564

Internal Revenue Service

Department of the Treasury

Date:

Taxpayer Identification Number:

Contact Person/ID Number:

Contact Telephone Numbers:

Dear Sir or Madam:

We have recently received information alleging that you may have jeopardized your tax-exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code by intervening in a political campaign. We are considering whether to examine your organization. A Revenue Agent will review the information and follow up with you as appropriate. The purpose of this letter is to provide you with general information about the provisions of the law that deal with prohibited political campaign activity.

Section 501(c)(3) organizations, which include charities, educational institutions and religious organizations, are prohibited from directly or indirectly participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. This means, for example, that they cannot (1) endorse any candidate, (2) make donations to a candidate's campaign, (3) engage in fund-raising for a candidate, (4) distribute statements for or against a particular candidate, or (5) become involved in any other activity that may be beneficial or detrimental to any candidate. Even activities that encourage people to vote for or against a particular candidate on the basis of nonpartisan criteria violate the political campaign prohibition of section 501(c)(3).

The prohibition on political campaign activity applies only to tax-exempt charitable organizations, not to the activities of individuals in their private capacity. The political campaign activity prohibition is not intended to restrict free expression on political matters by leaders of charitable organizations speaking for themselves as individuals. Nor are leaders prohibited from speaking about important issues of public policy. For their organizations to remain tax-exempt under section 501(c)(3), however, organization leaders cannot make partisan comments in official organization publications or at official organization functions.

Similarly, the prohibition on political campaign activity does not prohibit charitable organizations from having contact of any kind with individuals who are candidates for public office. For example, political candidates are not prohibited from attending organization meetings. Depending on the facts and circumstances, a charitable organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. For example, a candidate can be invited to speak at an organization function in his or her status as a candidate if the organization takes steps to ensure that: (1) it provides an equal opportunity to other political candidates seeking

the same office, (2) it does not indicate any support of or opposition to any candidate, and (3) no political fund-raising occurs. A candidate can be invited to speak at an organization function in his or her individual (non-candidate) capacity if the organization takes steps to ensure that: (1) the candidate speaks only in a non-candidate capacity (for example, a candidate speaks before a philatelic organization in his or her capacity as an expert on postage stamps of Great Britain), (2) neither the candidate nor any representative of the organization makes any mention of the fact that the individual is a candidate for public office or of the election in which he or she is running, and (3) no campaign activity occurs in connection with the candidate's attendance.

Whether a tax-exempt organization is engaging in prohibited political campaign activity depends upon all the facts and circumstances in each case. For example, organizations may encourage people to participate in the electoral process by sponsoring debates or forums to educate voters, distributing voter guides, or conducting voter registration or get-out-the-vote drives. If the debate or forum, voter guide, or voter registration or get-out-the-vote drive shows a preference for or against a certain candidate or party, however, it becomes a prohibited activity.

If the IRS determines that a section 501(c)(3) organization has engaged in prohibited campaign activity, the organization could lose its tax-exempt status and it could be subject to an excise tax on the amount of money spent on that activity.

In cases of flagrant violation of the law, the IRS has specific statutory authority to make an immediate determination and assessment of tax. Also, the IRS can ask a federal district court to enjoin the organization from making further political expenditures. In addition, contributions to organizations that lose their section 501(c)(3) status because of political activities are not deductible by the donors for federal income tax purposes.

For additional information about the political campaign prohibition for section 501(c)(3) organizations, please see our website at **www.irs.gov/eo**.

I hope the above information is helpful. As previously stated, the agent will follow up with you as appropriate after reviewing the information we have received. If you have any questions prior to that contact, you can reach the agent at the number shown at the top of this letter.

Sincerely,

Director, EO Examinations